

REMARKS

The Applicant has carefully reviewed and considered the Office Action mailed on July 14, 2006, along with the cited rejections and objections. In response, certain claims have been amended. In addition, the Specification has been amended. Reconsideration and further examination are requested.

Specification Amendment

Page 1 of the Specification has been amended to correct a typographical error in the identification of a related application. Acceptance is respectfully requested.

Rejection of the Claims Under Section 101

Claims 1-3 and 11-12 were rejected under 35 U.S.C. § 101 as double patenting Claims 1-3 and 7-8 of U.S. Patent No. 6,662,061. In response, independent Claims 1 and 11 have been amended to broaden their scope. In light of the amendments, present Claims 1-3 and 11-12 are not identical to any claims in the '601 Patent.

Reconsideration of the rejections under 35 U.S.C. § 101 is respectfully requested.

Double Patenting Rejection

Claims 4, 5, 13, and 14 were rejected under the judicially-created doctrine of double patenting over claims 4, 5, 9, and 10 of U.S. Patent No. 6,662,061. The Applicant requests that this rejection be placed in abeyance until all claims are otherwise allowed.

Allowable Subject Matter

The Applicant appreciates that Claims 6-10 and 15-20 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In light of the above amendments, it is believed that any remaining rejections can be overcome by a Terminal Disclaimer.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/822,229

Confirm. No. 1324

Filing Date: April 9, 2004

Title: The Use of Sub (Partial) Cycles, Nested Cluster Cycles, and Lot Cycles for Determining Equipment Capacities in a Batch Manufacturing Facility

Conclusion

The Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (781-239-8131) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3739.

Respectfully submitted,
R.D. Johnson & Associates, P.C.

Date January 16, 2007 By /Rodney D. Johnson/
Rodney D. Johnson
Reg. No. 36,558